



SDMS DocID

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ExxonMobil
Environmental Services Company
3225 Gallows Road
8B-1921
Fairfax, VA 22037

Steven P. Anastos
Project Manager

ExxonMobil

June 27, 2012

Via Electronic Mail and UPS Overnight

Kenneth I. Rose, III, Financial Analyst (3HS62)
United States Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Metro Container Site, Trainer, Pennsylvania
U.S. EPA Request for Information

Dear Mr. Rose:

Please accept this letter as the response of Exxon Mobil Corporation and ExxonMobil Oil Corporation (collectively, "ExxonMobil") to the Section 104(e) information request (the "Request") that EPA sent in connection with the Metro Container Site (the "Site"). Thank you for extending the deadline for the response.

GENERAL OBJECTIONS

This Request is overly broad and unduly burdensome and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA. Section 104(e) of CERCLA grants "[a]ny officer, employee, or representative of the President, duly designated by the President..." the right to seek information under Section 104 (e)(2) through (4) of CERCLA. EPA has been designated by the President. Section 104 (e)(2) allows EPA to seek the following information:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or to perform a cleanup.

EPA may also enter "[a]ny vessel, facility or establishment, or other place or property...." and take samples. 42 U.S.C. § 9604(e)(3). Similarly, EPA may inspect such locations and take

samples. However, Section 104(e)(1) indicates that EPA's authority under 104(e) "may be exercised only for the purposes of determining the need for response, or choosing or taking any response action under this subchapter, or otherwise enforcing the provisions of this subchapter." 42 U.S.C. § 9604(e)(1).

Thus, while EPA may require the submission of relevant information for the appropriate purposes, its authority is not unlimited. Even EPA's enforcement rights are limited. EPA may ask the Attorney General to commence a civil action to compel compliance with a 104(e) request, but, by statute, the court can only direct compliance with a 104(e) request if "there is a reasonable basis to believe there may be a release or threat of a release of a hazardous substance." 42 U.S.C. § 9604(e)(5)(B). Even then, it cannot do so if "under the circumstances of the case the demand for information or documents is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 42 U.S.C. § 9604(e).

ExxonMobil, as set forth in the following pages and the attachment hereto, is providing to EPA the information readily available to ExxonMobil. Moreover, ExxonMobil is willing to provide any additional specific information requested by EPA in compliance with CERCLA to the extent that it is relevant and reasonably available. However, both ExxonMobil's response and any future information it may provide are subject to the following objections (hereafter the "General Objections"):

1. ExxonMobil objects to the Request to the extent that it seeks information beyond what is authorized by Section 104(e).
2. ExxonMobil asserts all applicable privileges and protections it has with regard to EPA's enumerated inquiries including the attorney-client privilege, the attorney work product doctrine, and materials generated in anticipation of litigation, and has attempted to exclude such materials from this response. As a result of providing any of the documents or information included in its response to EPA's request, ExxonMobil does not waive any privilege, including attorney work product protection, that may apply to any documents or information concerning the same subject matter which are privileged, confidential or subject to attorney work product protection. In addition, ExxonMobil asserts all applicable privileges for materials which are proprietary, company confidential, or trade secret.
3. ExxonMobil objects to any requirement to produce documents or information already in the possession of a government agency, already in the public domain, or previously provided to EPA. Such requirement is duplicative and, therefore, unnecessary and burdensome.

Notwithstanding and without waiving these objections, and subject to them, ExxonMobil has prepared this response based upon the information available to it. Where questions or definitions are vague, ambiguous, overly broad, unduly burdensome, or beyond the scope of EPA's authority pursuant to Section 104(e) of CERCLA, ExxonMobil is making appropriate and reasonable efforts to provide responsive information based on ExxonMobil's interpretation of the Request. To the extent that information submitted herein is not required by law or is otherwise outside the scope of EPA's 104(e) authority, that information is voluntarily submitted. ExxonMobil waives no rights or protection of information it voluntarily submits.

RESPONSES

Subject to the foregoing, ExxonMobil provides the following responses:

**1. EPA has information which indicates that you sent drums to the Metro Container Site
.... For each such facility, identify:**

a) The address of the facility; and

ExxonMobil has within its possession documentation relevant to the Metro Container Corp ("Metro") Site that lists addresses from which or to which drums sent in connection with Metro's operations. This documentation primarily consists of drum count reports sent by Metro to ExxonMobil Oil Corporation (then known as "Mobil Oil Corporation"). These sites were operational prior to the merger of the Exxon and Mobil organizations and the references in Metro's documentation are unclear as to the exact location of the facility or what operations may have been carried out at such facility. Where an address for a facility is identifiable, we have listed it below. Where there is a reference to a facility that we could not identify, we include only the reference from the documentation.

EXXONMOBIL OIL CORPORATION FACILITIES

Albany Terminal
50 Church Street
Albany, NY 12202

Brooklyn Terminal
300 North Henry Street
Brooklyn, NY 11222

Binghamton Terminal
3301 Old Vestal Road
Vestal, NY 13850

Charlotte, North Carolina Facility

Lancaster Terminal
1360 Manheim Pike
Lancaster, PA 17604

Malvern Terminal
8 South Malin Road
Frazer, PA 19406

Newburgh Terminal
20 River Road
Newburgh, NY 12550

Norfolk Terminal
Halifax Lane
Chesapeake, VA 23324

Paulsboro Refinery
800 Billingsport Road
Paulsboro, NJ 08066

Paw Creek, North Carolina Facility

Pennington, New Jersey Facility

Pottsville, Pennsylvania Facility

Savannah Georgia Facility

Washington, New Jersey Facility

EXXON MOBIL CORPORATION FACILITIES

Lake Zurich Films Plant
355 North Parkwood Road
Lake Zurich, IN 60047

Philadelphia Terminal
6850 Essington Avenue
Philadelphia, PA 19153

b) The products/materials produced at such facility between 1980-1988

The list of facilities set forth above contains two facilities that would have produced products or materials. The first such facility is the Paulsboro refinery, which was operated by ExxonMobil Oil Corporation (then known as "Mobil Oil Corporation"), and which was sold to Valero Refining Company in 1998.

With respect to this facility, ExxonMobil objects to the question on the grounds that it is vague, overly broad, and unduly burdensome. The Paulsboro refinery, like any large refinery, produced hundreds of different products each year. These products included standard petroleum products refined from crude oil, including gasoline motor fuel, diesel fuel, distillates (including kerosene and jet fuel), lubricant products, asphalt, and petroleum coke.

The second facility that would have produced products or materials is the Lake Zurich Films Plant, which was operated by Exxon Mobil Corporation (now known as "Exxon Mobil Corporation"). This facility was sold in 1999 to Tradegar Industries, and manufactured films primarily used in packing, personal hygiene, and medical markets.

The remaining facilities, to the extent their operations are known, are motor fuel storage and distribution terminals. These facilities did not produce products or materials, but

stored large quantities of motor fuels and loaded those fuels onto trucks for delivery to retail locations.

2. Identify the processes used between 1980-1988 to produce the products/materials identified in response to Question #1.

ExxonMobil objects to the question on the grounds that it is vague, overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, in a search of its records, ExxonMobil did not locate any documents for the time period in question regarding the processes used at the Paulsboro refinery to produce the products identified in response to Question #1. In addition, at a petroleum refinery, there are a vast array of methods employed to refine crude oil into finished products, including distillation, cracking, reforming, de-waxing and many others. These standard methods would have been used at the Paulsboro refinery.

For the Lake Zurich Films Plant, ExxonMobil did not locate any documents for the time period in question regarding the processes used at the Lake Zurich Plant.

3. Identify the raw materials used in the processes identified in response to Question #2.

ExxonMobil objects to the question on the grounds that it is vague, overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, in a search of its records, ExxonMobil did not locate any documents for the time period in question regarding the raw materials used at the Paulsboro refinery. In addition, at a petroleum refinery, given the number of products produced, there are many different types of raw materials used, the primary of which is crude oil. The types of crude oil may vary from time to time, from year to year, and even within a single calendar year. ExxonMobil Oil Corporation refined crude oil into finished products at the Paulsboro refinery.

For the Lake Zurich Films Plant, ExxonMobil did not locate any documents for the time period in question regarding the raw materials used at the Lake Zurich Plant.

4. Identify all wastes and by-products generated between 1980-1988 from the processes identified in response to Question #2.

ExxonMobil objects to the question on the grounds that it is vague, overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, in a search of its records, ExxonMobil did not locate any documents for the time period in question regarding wastes or by-products for the facilities listed in response to Question #2.

5. For each raw material and waste/by-product identified in response to Questions #3 and #4:

a) Identify the chemical composition

ExxonMobil objects to the question on the grounds that it is vague, overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, ExxonMobil did not locate any documents for the time period in question regarding wastes, by-products, or the chemical composition of wastes or by-products.

b) Provide a copy of all documents referring to or related ...

ExxonMobil did not locate any documents for the time period in question regarding raw materials, wastes, or by-products for the facilities identified in response to Question#2.

c) Identify how each waste/by-product was disposed of between 1980-1988.

ExxonMobil objects to the question on the grounds that it is vague, overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, in a search of its records, ExxonMobil did not locate any documents regarding the disposal of any waste or by-product for the facilities identified in response to Question#2.

6. Identify all chemicals/constituents that would have been present in drums present at any time ...

ExxonMobil objects to the question on the grounds that it is vague, overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA. In addition, a response to the question would require ExxonMobil to speculate.

Notwithstanding the foregoing objection, in a search of its records, ExxonMobil did not find any documents for the time period related to chemicals or constituents present in drums at the facilities identified in response to Question#1(a).

7. Identify the number of drums/containers sent to the Metro Container Site from the facilities

ExxonMobil has documentation within its possession that relates to its involvement with the earlier operations at the Site conducted under CERCLA. This documentation indicates that 234,018 drums were allocated to ExxonMobil Oil Corporation (then known as "Mobil Oil

Corporation") for purposes determining the proportion of costs to be borne by each party. Of this number, ExxonMobil has documentation substantiating that approximately 87,652 were sent to the Site by an ExxonMobil Oil Corporation facility identified in response to Question #1(a), or delivered to such a facility from Site during the time period in question. These sites and the respective drum counts for such sites are identified below:

<u>SITE NAME</u>	<u>DRUM COUNT</u>
Albany, New York	255
Binghamton, New York	144
Brooklyn, New York	5,028
Charlotte, North Carolina	1,892
Chesapeake, Virginia	687
Lancaster, Pennsylvania	3
Malvern, Pennsylvania	6
Paw Creek, North Carolina	2,701
Newburgh, New York	328
Pennington, New Jersey	26
Paulsboro, New Jersey	74,028
Pottsville, Pennsylvania	1
Savannah, Georgia	2,438
Staten Island, New York	81
Washington, New Jersey	34

The remaining drums allocated to ExxonMobil Oil Corporation apparently were sent to the Site from a third-party facility, or were sent from a company-owned facility, but lacks documentation.

In addition to the drums listed above, two facilities that were then-owned or operated by Exxon Mobil Corporation (then known as "Exxon Corporation") and identified in response to Question #1(a) sent drums to or received drums from the Site. These are listed below.

<u>SITE NAME</u>	<u>DRUM COUNT</u>
Lake Zurich, Indiana	200
Philadelphia, Pennsylvania	1,807

8. Identify the procedures used to determine which drums present at any time at your facilities

ExxonMobil objects to the question on the grounds that it is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, ExxonMobil is unaware of any such procedures.

9. Identify the chemicals/constituents contained in the drums you sent to the Metro Container Site.

Except as described in response to Question #10 below, ExxonMobil does not have any documentation that would indicate the content of any drums sent to the Site during the time

period in question. Since the drums would have been reconditioned and returned to ExxonMobil after such reconditioning, presumably the drums would have been empty when sent to the Site.

10. If you assert in response to Question #9 that some or all of the drums sent to the Metro Container Site were empty, identify the chemicals/constituents

Except as described below, the answer to this question would require ExxonMobil to speculate and ExxonMobil objects to this question for this reason. Notwithstanding the foregoing objection, ExxonMobil did not find any documentation indicating what may have been in any of the drums sent to the Site prior to their shipment.

Exxon Mobil Corporation's former Lake Zurich Films Plant apparently sent a shipment of 200 drums to the Site during the time period in question. Documentation on hand indicates that these drums were empty, but had contained Arcoprime Oil 350, a non-hazardous food-grade product.

11. Identify, and provide a copy of, all contracts and agreements between you and Metro Container Corporation and any related entity

In a search of its records, ExxonMobil did not find any agreements between it and any company that operated the Site. ExxonMobil did find a number of documents that appear to be reconciliations of drums on-hand at the Site and drums sent to the Site from an ExxonMobil Oil Corporation facility, as well as drums returned to such a facility from the Site. Since those agreements contain no contractual terms and conditions, they have not been reproduced and provided with this response, but if EPA wishes to receive those documents, ExxonMobil will copy and provide them to EPA upon request.

In addition, ExxonMobil has a number of documents from Universal Container Steel Drum Corp notifying Exxon Corporation of annual price adjustments, but do not contain any other references to contractual terms and conditions. If EPA wishes to receive those documents, ExxonMobil will copy and provide them upon request.

12. Provide the name, title, address, and telephone number of the person answering these questions on your behalf. For each question, provide the name, ... consulted in preparation of these answers.

Kevin J. Vaughan
Exxon Mobil Corporation
3225 Gallows Road
Fairfax, VA 22037
Office: (703) 846-4416

Steven P. Anastos
ExxonMobil Environmental Services Company
3225 Gallows Road
Fairfax, VA 22037
Office: (703) 846-3393

13. If any of the documents solicited in this information request are no longer available....

- a) Your document retention policy
- b) A description of how the records were/are destroyed....
- c) The approximated date of destruction;
- d) A description of information that would have been....
- e) The name, job title, and most current address known to you who would have produced....responsible for the retention of these documents....and the person who would have been responsible for the destruction of these documents.

ExxonMobil objects to the question on the grounds that it is overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA.

Notwithstanding the foregoing objection, ExxonMobil made a reasonable search of its records and is not able to identify what records may have existed that are relevant to the Site. It cannot thus identify whether and when such records may have been destroyed.

At one point in time, ExxonMobil did have records related to ExxonMobil Oil Corporation's involvement at the Site during previous work performed under CERCLA. We believe that these records may have been destroyed in a fire that occurred in 1997 at a third-party offsite storage facility. A copy of a letter from the company that owned this storage facility is attached.

14. If you have any information about other parties who may have information which may assist the EPA....

ExxonMobil objects to the question on the grounds that it is overly broad, unduly burdensome, and seeks information that is irrelevant and not calculated to lead to information that can legally be obtained under Section 104(e) of CERCLA and therefore exceeds EPA's statutory authority under CERCLA. In addition, the Site was previously the subject of work performed under CERCLA and the parties that were involved with that work and their contact information is within the possession of EPA.

CLOSING STATEMENT

Notwithstanding the foregoing, if EPA has a specific relevant question about a particular issue relevant to the "Site" and has a reasonable need for such information in connection with the Site, we will conduct an additional and more targeted search provided that we are given adequate time to do so. Please address further correspondence to our counsel, Kevin Vaughan whose address and telephone are included in response number 12.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. P. Anastos", written in a cursive style.

Steven P. Anastos, PG
Project Manager

Diversified

RECORDS

SERVICES, INC.

Fourth Street and Pacific Avenue, West Pittston, PA 18643
Tel: 800-331-0925 • Fax: 717-883-4613

May 13, 1997

WAYNE WILKERSON
MOBIL OIL CORPORATION
P.O. BOX 650232
DALLAS, TX 75265-0232
214-951-2988

RE: Disposal of Fire Debris

Dear WAYNE WILKERSON:

We regret the loss of your records due to the recent fire at our West Pittston, PA location. The destruction of this state-of-the-art facility is a devastating blow to all of us.

I am writing to explain how we intend to proceed with debris removal and clean-up. As always, be assured that confidentiality and our customers' best interests will be of primary importance.

The West Pittston Fire Chief expects that the fire, which has been burning since Monday, May 5, will be extinguished today. The Pennsylvania Fire Marshal and our insurance companies are completing their examinations. Our estimate is that the site will be released to us on Wednesday, May 14, to begin clean-up and disposal of debris.

Throughout the week, we have had two professional disaster recovery companies on-site in the hope of recovering at least some of your records. Both companies have evaluated the situation and independently reached the conclusion that there is nothing to recover. Attached are copies of their reports.

The disposal of debris will be performed by Accurate Document Destruction, Inc., of Ewing, NJ. Oversight of the process will be provided by LFW, Inc., an international security firm from Ridgefield, CT, and Beaufort, SC. The material will be handled with the utmost sensitivity and confidentiality. Appropriate measures will be taken to ensure that the disposal process meets confidential destruction procedures as outlined on the attached document.

Please note that, due to the confidential nature of the material, the co-mingling of customer documents by fire-fighting efforts, and the safety of all personnel, no one will be permitted to sift through the debris. You will receive an official Certificate of Destruction from Diversified, identifying the material involved in the fire, and documenting that it has been disposed of properly.

We ask that you have the enclosed Authorization and Release form signed by the appropriate person, and returned to Diversified to the attention of Mick Melberger, our Managing Director of Customer Service, as soon as possible. Thank you for your cooperation.

Please do not hesitate to contact Ned Wood, our Security Officer, at 800-458-4710 if you have any remaining questions or concerns. Thank you for your patience and understanding in helping us all look to the future.

Sincerely yours.



Clifford K. Melberger
President

CKM:jt